

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

January 15, 2007

There were no minutes for this date.

January 16, 2007

MISC. ORDER 2007-002

By the Court:

Associate Justice Rick Sims is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on January 18, 2007. Associate Justice George Nicholson is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on January 19, 2007, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Scotland, Presiding Justice; Blease, Associate Justice; Morrison, Associate Justice; and Harper, bailiff.

C052411 LEAD HILL ASSOCIATES et al. v. MIZRAHI

Cause called. David A. Riegels argued for appellants. Adam C. Brown argued for respondent. Cause submitted.

C051294 CALIFORNIA ASSOCIATION FOR HEALTH SERVICES AT HOME et al. v. DEPARTMENT OF HEALTH SERVICES et al.

Cause called. Robert C. Leventhal argued and Jeffrey R. Bates appeared only for appellants. Anthony V. Seferian, Deputy Attorney General argued for respondents. Cause submitted.

At 10:37 a.m., the court recessed. At 10:42 a.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C051132 STONE v. DAVIS

Cause called. Jennifer A. Gibson argued for appellant. Elizabeth E. Harrison argued for respondent. Cause submitted.

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At 11:02 a.m., the court recessed. At 11:09 a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Morrison, Associate Justice.

C051731 HALVORSEN v. HALVORSEN et al.

Cause called. Jeff Tachterman argued for appellants. Scott A. Bovee argued for respondents. Cause submitted.

C050605 THE PEOPLE v. BAROUDI

Cause called. Eric S. Multhaup argued for appellant. Melissa J. Lipon, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:15 a.m., the court recessed. At 2:01 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Morrison, Associate Justice.

C053016 COUNTY OF SAN JOAQUIN v. WORKERS' COMPENSATION APPEALS BOARD et al.

Cause called James E. Bruscino argued for petitioner. John Frailing argued for respondents. Cause submitted.

C050384 HART v. AUTOWEST DODGE

Cause called. Appellant waived argument. William N. Blasser argued for respondent. Cause submitted.

At 2:24 p.m., the court recessed until 9:30 a.m., Wednesday, January 17, 2007.

C047662 THE PEOPLE v. ETCHEGOIN

(Not for Publication)

The judgment is affirmed.

NICHOLSON, J.

We Concur: Scotland, P.J.

Robie, J.

C050054 THE PEOPLE v. BORBON

(Not for Publication)

The judgment is affirmed.

CANTIL-SAKAUYE, J.

We Concur: Blease, Acting P.J.

Nicholson, J.

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C051327 THE PEOPLE v. PIPPIN (Not for Publication)
The special circumstance finding is reversed and the parole revocation find is stricken. In all other respects, the judgment is affirmed.
RAYE, Acting P.J.
We Concur: Butz, J.
Cantil-Sakauye, J.

C051353 THE PEOPLE v. JOHNSON
BY THE COURT:
Appellant's petition for rehearing is denied.
SCOTLAND, P.J.

January 17, 2007

At 9:32 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Davis, Associate Justice; Hull, Associate Justice; and Horner, bailiff.

C048760 LANDAU v. MEDICAL BOARD OF CALIFORNIA
Cause called. Riordan Boersch argued for appellant. David. C. Carr, Deputy Attorney General, argued for respondent. Cause submitted.

At 9:50 a.m., the court recessed. At 9:56 a.m., the court reconvened with Davis, Associate Justice; Hull, Associate Justice; and Robie, Associate Justice.

C051093 ASTOR v. RENT-A-CENTER, INC.
C051352 ASTOR v. RENT-A-CENTER, INC.
Cause called. Henry D. Lederman argued and Richard R. Gray and Katy A. Bolls appeared only for appellant. Alan Exelrod argued and Kenneth J. Sugarman appeared only for respondent. Cause submitted.

At 10:34 a.m., the court recessed. At 10:36 a.m., the court reconvened with Hull, Associate Justice; Robie, Associate Justice; and Cantil-Sakauye, Associate Justice.

C050425 THOMPSON v. THOMPSON
Cause called. Jennifer A. Gibson argued for appellant. Sharon Thompson argued In Pro Per as respondent. Cause submitted.

At 10:50 a.m., the court recessed. At 10:55 a.m., the court reconvened with Robie, Associate Justice; Butz, Associate Justice; and Cantil-Sakauye, Associate Justice.

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C050766 GILBERT v. SYKES

Cause called. James M. Chadwick argued for appellant and submitted additional citations. Daniel L. Baxter argued for respondent. Cause submitted.

At 11:35 a.m. the court recessed. At 2:01 p.m., the court reconvened with Morrison, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

C052300 MILLER v. UNION PACIFIC RAILROAD COMPANY

Cause called. Charlotte E. Costan argued for appellant and submitted additional citations. Joseph P. Mascovich argued for respondent. Cause submitted.

C051959 WENDT v. BORUCKI, as Director etc., et al.

Cause called. Tamara L. Morgan, Deputy Attorney General, argued for appellant. There was no appearance made by respondent. Cause submitted.

At 2:22 p.m., the court recessed. At 2:27 p.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Robie, Associate Justice.

C051231 DENNIS-JOHNSON v. THE PERMANENTE MEDICAL GROUP

Cause called. Jennie L. Wang argued and Sam B. Shepherd appeared only for appellant. Eric Weaver argued for appellant and submitted additional citations. Cause submitted.

At 3:00 p.m., the court recessed. At 3:05 p.m., the court reconvened with Scotland, Presiding Justice; Davis, Associate Justice; and Raye, Associate Justice.

C051851 THE PEOPLE v. SIMMERSON

Cause called. Charles M. Bonneau, Court Appointed Counsel, argued for appellant. A. Kay Lauterbach, Deputy Attorney General, argued for respondent. Cause submitted.

C052576 FOGARTY et al. v. CITY OF CHICO et al.

Cause called. William D. Connell argued and Douglas B. Aikins appeared only for appellants. James L. Meeder argued and Michael Patrick Durkee appeared only for respondents. Cause submitted.

At 4:15 p.m., the court recessed until 9:30 a.m. Friday, January 19, 2007.

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- C045556 THE PEOPLE v. WIMBERLY (Not for Publication)**
The judgment is affirmed.
HULL, J.
We Concur: Scotland, P.J.
Robie, J.
- C051333 THE PEOPLE v. BURCEA (Not for Publication)**
The judgment is affirmed.
CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
Butz, J.
- C051368 THE PEOPLE v. RHODES (Not for Publication)**
The judgment is affirmed.
BUTZ, J.
We Concur: Nicholson, Acting P.J.
Cantil-Sakauye, J.
- C052018 THE PEOPLE v. VELA (Not for Publication)**
Defendant's conviction for attempted grand theft is reversed and the sentence thereon is vacated. In all other respects, the judgment is affirmed. The trial court is ordered to prepare a corrected abstract of judgment and to forward a certified copy to the Department of Corrections and Rehabilitation.
CANTIL-SAKAUYE, J.
We Concur: Nicholson, Acting P.J.
Butz, J.
- C052124 THE PEOPLE v. ROGERS (Not for Publication)**
The judgment is affirmed.
CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
Butz, J.
- C050266 HERR as Trustee, etc. v. UNDERWOOD et al. (Not for Publication)**
The judgment is affirmed. Costs on appeal are awarded to plaintiff. (Cal. Rules of Court, rule 8.276(a).)
NICHOLSON, Acting P.J.
We Concur: Robie, J.
Butz, J.

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- C050289 CALIFORNIA FARM BUREAU FEDERATION et al. v. CALIFORNIA STATE WATER RESOURCES CONTROL BOARD (CERTIFIED FOR PUBLICATION)**
The judgment denying the plaintiffs' petition for writ of mandate is reversed in part... In all other respects, the judgment is affirmed. The parties shall bear their own costs on appeal. (Cal. Rules of Court, rule 8.276.)
CANTIL-SAKAUYE, J.
We Concur: Blease, Acting P.J.
Sims, J.
- C050462 SAVE OUR GATEWAY v. TOWN OF PARADISE et al. and FHK PARADISE (Not for Publication)**
We reverse that portion of the judgment finding that the EIR failed to address Skyway's potential to cause urban decay. In all other respects, the judgment is affirmed. Save Our Gateway shall recover costs on appeal.
RAYE, Acting P.J.
We Concur: Morrison, J.
Cantil-Sakauye, J.
- C051406 THOMSON v. KEEBLER COMPANY et al. (Not for Publication)**
The judgment is affirmed. Defendants are awarded costs on appeal. (Cal. Rules of Court, rule 8.276(a).)
RAYE, Acting P.J.
We Concur: Robie, J.
Cantil-Sakauye, J.
- C051664 In re C.G. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. B.W. (Not for Publication)**
The orders and judgment are affirmed.
CANTIL-SAKAUYE, J.
We Concur: Nicholson, Acting P.J.
Butz, J.
- C052119 In re A.D. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. N.M. et al.**
C052983 In re B.D.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. N.M. et al. (Not for Publication)
The juvenile court's order terminating the parental rights of mother and father are affirmed.
SCOTLAND, P.J.
We Concur: Robie, J.
Butz, J.

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- C050262 THE PEOPLE v. McHENRY (Not for Publication)**
The judgment is reversed, and the case is remanded to the Superior Court for a new trial.
SIMS, J.
We Concur: Blease, Acting P.J.
 Morrison, J.
- C051138 THE PEOPLE v. HEFLER (Not for Publication)**
The judgment is affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
 Butz, J.
- C052349 In re ROBERT G. et al.; SAN JOAQUIN COUNTY HUMAN SERVICES AGENCY v. KRISTINA G. (Not for Publication)**
The orders of the juvenile court are affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
 Butz, J.
- C052834 In re M.L.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. MICHELLE L. (Not for Publication)**
The orders of the juvenile court are affirmed.
ROBIE, J.
We Concur: Scotland, P.J.
 Butz, J.
- C053095 In re JAMIE J.; YOLO COUNTY DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES v. LINDA J. (Not for Publication)**
The juvenile court's order is affirmed.
RAYE, Acting P.J.
We Concur: Morrison, J.
 Cantil-Sakauye, J.
- C051792 In re FIDEL JESSIE LOZANO (Not for Publication)**
The petition for writ of habeas corpus is granted as to the three-year denial decision. The Board is ordered to immediately conduct (after meeting any procedural requirements) a parole suitability hearing regarding petitioner. In all other respects, the petition is denied.
DAVIS, J.
We Concur: Scotland, P.J.
 Butz, J.

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C047936 THE PEOPLE v. CONRAD, SR.
BY THE COURT:
Respondent's petition for rehearing is denied.
Sims, Acting P.J.

C049665 THE PEOPLE v. GARCES
BY THE COURT:
Appellant's petition for rehearing is denied.
NICHOLSON, Acting P.J.

January 19, 2007

At 9:31 a.m., the court met in the Library and Courts Building to begin its court calendar session. Present were Blease, Associate Justice; Morrison, Associate Justice; Robie, Associate Justice; and Haskett, bailiff.

C052564 SHEPARD v. EDWARD MACKAY ENTERPRISES, INC., et al.
Cause called. David C. Becker argued for appellants Cottonwood Dev. Andrew G. Minney argued for appellant Mackay. Eugene P. Haydu, Jr. argued for respondent. Cause submitted.

At 10:01 a.m., the court recessed. At 10:06 a.m., the court reconvened with Davis, Associate Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

C051385 IMAGISTICS INTERNATIONAL, INC. v. STATE OF CALIFORNIA and SHARP ELECTRONICS CORPORATION
Cause called. Paul F. Dauer argued for appellant. Geoffrey L. Graybill, Deputy Attorney General, argued for respondent. Dennis Rice argued for real party in interest. Cause submitted.

At 10:51 a.m., the court recessed. At 10:58 a.m., the court reconvened with Raye, Associate Justice; Morrison, Associate Justice; and Cantil-Sakauye, Associate Justice.

C052413 In re P.D.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES v. S.T.
Cause called. Lisa A. Travis, County Counsel, argued for respondent. Linda J. Conrad, court appointed counsel, argued for appellant. Cause submitted.

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At 11: 21 a.m., the court recessed. At 2:01 p.m., the court reconvened with Blease, Associate Justice; Raye, Associate Justice; and Butz, Associate Justice.

**C052247 In re ANTONIE M. et al.; SACRAMENTO COUNTY DEPARTMENT OF
HEALTH AND HUMAN SERVICES and ANTONIE M. et al. v. GENELLE M.**

Cause called. Julie E. Braden, court appointed counsel, argued for appellant Genelle M. Darlene E. Kelly, court appointed counsel, argued for respondents Antonie M. et al. Respondent, Sacramento County Department of Health and Human Services waived argument. Cause submitted.

At 2:18 p.m., the court recessed until 9:30 a.m., Monday, January 22, 2007.

C049336 THE PEOPLE v. GALVAN (Not for Publication)

The judgment of conviction is affirmed.

BLEASE, J.

We Concur: Scotland, P.J.

Morrison, J.

C050911 THE PEOPLE v. ADAMS (Not for Publication)

The judgment and sentence are affirmed.

BLEASE, Acting P.J.

I concur: Cantil-Sakauye, J.

I concur in the result.

ROBIE, J.

**C053699 DENNIS M. et al. v. SUPERIOR COURT OF SACRAMENTO COUNTY and
SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND HUMAN
SERVICES (Not for Publication)**

Let a peremptory writ of mandate issue, directing respondent juvenile court to vacate its orders... The matter is remanded with directions to the juvenile court to determine whether there is clear and convincing evidence that petitioners failed to participate regularly and make substantive progress in their treatment plan.

BLEASE, Acting P.J.

We Concur: Butz, J.

Cantil-Sakauye, J.

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C048438 GLOBAL MED TECHNOLOGIES, INC. et al. v. JACKSON, JR.

C049490 GLOBAL MED TECHNOLOGIES, INC. et al. v. JACKSON, JR.

THE COURT:

It is ordered that the opinion filed herein on December 20, 2006, be modified...

...This modification does not change the judgment.

The petition for rehearing is denied. The motion and supplemental motion for judicial notice are denied, as the documents are irrelevant to our decision.

THE COURT:

NICHOLSON, Acting P.J.

ROBIE, J.

BUTZ, J.